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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

2-BAR RANCH LIMITED PARTNERSHIP,

a Montana limited partnership, et al.,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE, et al.,

Defendants.

Case No.:
CV 18-33-BU-SEH

**MOTION FOR
SUMMARY
JUDGMENT**

Plaintiffs 2-Bar Ranch Limited Partnership (“Two Bar Ranch”), Broken Circle Ranch Company, Inc. (“Broken Circle Ranch”), and R Bar N Ranch, LLC (“R Bar N”) (collectively “Plaintiffs”), by and through their undersigned counsel, move for summary judgment in the above-entitled matter pursuant to Federal Rule of Civil Procedure 56. As stipulated by the parties, this case may be decided on the administrative record and no Statement of Undisputed Facts is necessary under Local Rule 56.1(a). *See* Doc. 27, at 3 n.1 (“The parties

agree that fact statements ordinarily required under L. R. 56.1(a) and (b) are not appropriate in these APA proceedings.”). There are no genuine issues of material fact, and Plaintiffs are entitled to judgment as a matter of law.

For the reasons stated in Plaintiffs’ Brief in Support of Motion for Summary Judgment and the pleadings and supporting documents on file with this Court, Plaintiffs request summary judgement on Counts 1 through 7 of their Amended Complaint. Plaintiffs ask the Court to issue relief as follows:

- (1) Reverse the Forest Supervisor’s April 18, 2018 decision to implement the 1995 Interim Riparian Mitigation Measures and 1996 Allotment Management Plan on Dry Cottonwood Allotment and remand with instructions for the Forest Service to apply the interim livestock grazing standards in the *2009 Beaverhead-Deerlodge National Forest Land and Resource Management Plan* (“2009 Forest Plan”) on Dry Cottonwood Allotment.
- (2) Set aside those portions of Plaintiffs’ 2018 Annual Operating Instructions that required Plaintiffs to comply with the 1995 Interim Riparian Mitigation Measures and 1996 Allotment Management Plan.
- (3) Set aside the 2016 Notice of Noncompliance and 2017 Notice of Noncompliance based on their use of unlawful allowable use standards and failure to comply with due process.

(4) Reverse the Forest Supervisor's June 5, 2018 decision denying Plaintiffs' request for fees and expenses under the Equal Access to Justice Act, and remand with instructions for the Forest Supervisor to award Plaintiffs' fees and expenses for their successful appeal of the Forest Service's decision to suspend a portion of their term grazing permits.

RESPECTFULLY submitted this 14th day of December, 2018.

/s/ Calli J. Michaels
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